

RECEIVED

APR 4 1995

10306US04

PATENT

DEPARTMENT OF COMMERCE
U.S. PATENT AND TRADEMARK OFFICE



Attorney's Docket No.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

in re application of:

Serial No.: 08 / 134,881 Group No.: 2104
Filed: October 12, 1993 Examiner: TEAM EXAM TWO
For: BATTERY CONDITIONING SYSTEM HAVING
COMMUNICATION WITH BATTERY MANAGEMENT MEANS

Commissioner of Patents and Trademarks
Washington, D.C. 20231

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

NOTE: A terminal disclaimer should not accompany a petition based on unintentional abandonment. Notice of July 9, 1985 (1056 O.G. 60-61).

NOTE: In accordance with the Notice of November 5, 1990 (1121 O.G. 6), an application abandoned under 37 CFR 1.53(d) for failure to timely provide the appropriate filing fee, oath or declaration and/or surcharge may be revived under the procedure of 37 CFR 1.137(b).

1. This application became abandoned on DECEMBER 12, 1994

NOTE: Extensions under 37 CFR 1.136 are available only if asked for "prior to or with the response." Accordingly, if the question of abandonment arises when the provisions of § 1.136 can no longer be used then the application is abandoned when the unextended time for response expired. Therefore, no extension fees are due on a petition for revival.

CERTIFICATE OF MAILING/TRANSMISSION (37 CFR 1.8(a))

I hereby certify that this correspondence is, on the date shown below, being:

MAILING

deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to the Commissioner of Patents and Trademarks, Washington, D.C. 20231

Date: 3/13/95

FACSIMILE

transmitted by facsimile to the Patent and Trademark Office

Signature


GREGORY C. SCHODDE REG. NO. 36,668
(type or print name of person certifying)

2. This petition is filed:

within one year of the date of abandonment.

NOTE: Under very limited conditions a petition to revive for unintentional abandonment may exceed the one year limit when abandonment is due to action or inaction by the applicant and the PTO performs a positive documented official act which could lead a reasonable individual to conclude that the action or inaction was appropriate. Notice of August 26, 1985 (1059 O.G. 4).

within three months of the date of the first decision on a petition to revive under 37 CFR 1.137(a) which was filed within one year of the date of abandonment.

(check next box, if applicable)

the three month period has been extended up to

NOTE: The non-statutory three month period may be extended up to four months if a petition for an extension of time and the fee set in 37 CFR 1.17(a) to (d) are filed with or prior to this petition.

3. This application became abandoned unintentionally.

4. Proposed response

has been filed.
 is attached.

(complete the following, if applicable)

NOTE: The PTO accepts the filing of a continuing application as a response under 37 CFR 1.137. To facilitate processing in such a case the petition to revive should specifically refer to the filing of a continuing application and also include an express abandonment of the prior application conditioned upon the granting of the petition and the granting of a filing date to the continuing application. Notice of May 13, 1983, (1031 O.G. 11-12).

The response is the filing of a continuation application having an express abandonment conditioned on the granting of a filing date to the continuing application copending with this application.

5. Fee 37 CFR 1.17(m))

Application status is:

small business entity—fee \$605.00
 verified statement attached
 verified statement filed
 other than small entity—fee \$1,210.00

6. Payment of fee:

Enclosed please find check for \$605.00 \$1,210.00
 Charge Account 13-0017 for any additional fee required.
 Charge Account _____ the sum of \$605.00 \$1,210.00.

A duplicate of this petition is attached.

7. Verification:

NOTE: The statement that the abandonment was unintentional must be a verified statement if made by a person not registered to practice before the PTO. 37 CFR 1.137. Check the next box if this is the case.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

Date: 3/13/95



(Signature of person making statement
that abandonment was unintentional)

GREGORY C. SCHODDE

(type or print name of person making
statement)

(Residence of person making statement)

CHICAGO, IL

USA



SIGNATURE OF ATTORNEY

GREGORY C. SCHODDE

~~MCANDREWS, HELD & MALLOY, LTD.~~

(type or print name of attorney)

500 WEST MADISON, SUITE 3400

(P.O. Address)

CHICAGO, IL 60661

Reg. No.: 36,668

Tel. No.: (312) 707-8889



1210.00 - 141

11

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
Docket No. 10306US04

PATENT

In the Patent Application of:)
Koenck, Steven F.)
Serial No. 08/134,881) Examining Attorney:
Filed: October 12, 1993) TEAM EXAM TWO
Title: BATTERY CONDITIONING) Group Art Unit: 2104
SYSTEM HAVING COMMUNICATION
WITH BATTERY MANAGEMENT
MEANS)

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

The Honorable Commissioner of
Patents and Trademarks
Washington, D.C. 20231

Dear Sir:

Pursuant to 37 C.F.R. § 1.137(b), Applicant hereby petitions to revive the above-identified patent application to a pending status as the abandonment was unintentional. The reason for this request is that a response to the First Office Action was timely filed. The relevant facts are as follows:

- Applicant received a Notice of Abandonment dated December 12, 1994 which stated that the above-identified application was abandoned because the PTO did not receive a response to the April 4, 1994 Office Action within the statutory six-month period.

- The actual mailing date of the Office Action was April 6, 1994 (see copy attached).

- Therefore, the statutory six-month period actually expired on October 6, 1994.

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Ok refund 1210.00
acc.

TL90044 06/06/95 08134881

13-0017 090 141 1,210.00CR

- Applicant mailed a Response on October 5, 1994, that included a Response to the First Office Action, a Terminal Disclaimer to Obviate Any Double Patenting, and a Petition for a Three Month Extension of Time.

In support of this timely filed Response, Applicant provides the following evidence:

- Applicant properly executed a Certificate of Mailing indicating the mailing date of October 5, 1994 for the Response to the First Office Action, a Terminal Disclaimer to Obviate Any Double Patenting, and a Petition for a Three Month Extension of Time (copies enclosed).

- The Response to the First Office Action, a Terminal Disclaimer to Obviate Any Double Patenting, and a Petition for a Three Month Extension of Time were apparently received by the Office on October 11, 1994 (see copy of stamped return postcard).

Applicant noted during a review of the case file that the documents filed on October 5, 1994, did not contain a serial number for the pending application (see attached copies). However, the information panel did include the correct Attorney Docket Number, Inventor name, Filing Date, Title of the Application, Examiner's Name and Group Art Unit number.

Under 37 CFR 1.5(a), documents filed with the USPTO that do not identify the application by serial number will be returned to

the sender if a return address is available and then, the applicant will be given two weeks to resubmit the documents. The documents that were submitted on October 5, 1994, indicated the attorney of record, his address, and phone number. Nevertheless, Applicant has never received any returned incomplete documents, and therefore was not put on notice of the omission, and could not respond in a timely fashion.

Lastly, Applicant notes that this Notice of Abandonment would have been responded to earlier but for the fact that the Notice was received during the Christmas holidays and remained unnoticed until last week.

In summary, Applicant submits that the Response to the First Office Action was properly responded to within the statutory six month period that expired October 6, 1994. Therefore, Applicant believes the December 12, 1994 Notice of Abandonment was issued erroneously and respectfully petitions to revive the above-identified patent application.

Accompanying this Petition is a check in the amount of \$1,210.00 to cover the fee required by 37 C.F.R. § 1.17(m). If any other fees are due, please charge our Deposit Account No. 13-0017. Should any further questions arise regarding this application, Applicant's attorney invites the Examiner to contact him directly. Lastly, should the Notice of Abandonment be deemed to have been issued in error, Applicant requests that the Petition fee be

refunded to our deposit account.

Respectfully submitted,

Dated: March 13, 1995



Gregory C. Schodde
Reg. No. 36,668

CERTIFICATE OF MAILING

CERTIFICATE UNDER 37 C.F.R. 1.8: The undersigned hereby certifies that this paper has been deposited in the United States Postal Service, as first class mail, in an envelope addressed to: The Honorable Commissioner of Patents and Trademarks, Washington, D.C. 20231 on March 13, 1995.



Gregory C. Schodde



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

SERIAL NUMBER	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/134,881	10/12/93	KOENCK	S 10306US04
		21M1/0406	EXAMINER VOELTZ, E.

GREGORY C. SCHODDE
MCANDREWS, HELD & MALLOY, LTD.
34TH FLOOR
500 WEST MADISON STREET
CHICAGO, IL 60661

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

ART UNIT

PAPER NUMBER

5

2102

DATE MAILED: 04/06/94

RESPONSE DUE:

July 6, 1994

This application has been examined Responsive to communication filed on _____ This action is made final.

A shortened statutory period for response to this action is set to expire Three (3) month(s), _____ days from the date of this letter.
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

1. Notice of References Cited by Examiner, PTO-892.
2. Notice re Patent Drawing, PTO-948.
3. Notice of Art Cited by Applicant, PTO-1449.
4. Notice of Informal Patent Application, Form PTO-152.
5. Information on How to Effect Drawing Changes, PTO-1474.
6. _____

Part II SUMMARY OF ACTION

1. Claims 49-64 are pending in the application.

Of the above, claims _____ are withdrawn from consideration.

2. Claims 1-48 have been cancelled.

3. Claims _____ are allowed.

4. Claims 49-64 are rejected.

5. Claims _____ are objected to.

6. Claims _____ are subject to restriction or election requirement.

7. This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.

8. Formal drawings are required in response to this Office action.

9. The corrected or substitute drawings have been received on _____. Under 37 C.F.R. 1.84 these drawings are acceptable. not acceptable (see explanation or Notice re Patent Drawing, PTO-948).

10. The proposed additional or substitute sheet(s) of drawings, filed on _____ has (have) been approved by the examiner. disapproved by the examiner (see explanation).

11. The proposed drawing correction, filed on _____, has been approved. disapproved (see explanation).

12. Acknowledgment is made of the claim for priority under U.S.C. 119. The certified copy has been received not been received been filed in parent application, serial no. _____; filed on _____

13. Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.

14. Other

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APR 11 1994

EXAMINER'S ACTION
MCANDREWS, HELD & MALLOY, LTD.

**UNITED STATES DEPARTMENT OF COMMERCE****Patent and Trademark Office**Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
100-10000000	10/10/1994	GRIGORY C. SCHODDE	EMBODIMENT

E1M1/1212

GRIGORY C. SCHODDE
MCANDREWS, HELD & MALLOY, LTD.
34TH FLOOR
300 WEST MARION STREET
CHICAGO, IL 60661

TEAM-E EXAMINER	
ART UNIT	PAPER NUMBER
2104	6
DATE MAILED:	

NOTICE OF ABANDONMENT

This application is abandoned in view of:

1. Applicant's failure to respond to the Office letter, mailed 4/4/94.
2. Applicant's letter of express abandonment which is in compliance with 37 C.F.R. 1.138.
3. Applicant's failure to timely file the response received _____ within the period set in the Office letter.
4. Applicant's failure to pay the required issue fee within the statutory period of 3 months from the mailing date of _____ of the Notice of Allowance.

 The issue fee was received on _____ The issue fee has not been received in Allowed Files Branch as of _____

In accordance with 35 U.S.C. 151, and under the provisions of 37 C.F.R. 1.316(b), applicant(s) may petition the Commissioner to accept the delayed payment of the issue fee if the delay in payment was unavoidable. The petition must be accompanied by the issue fee, unless it has been previously submitted, in the amount specified by 37 C.F.R. 1.17 (l), and a verified showing as to the causes of the delay.

If applicant(s) never received the Notice of Allowance, a petition for a new Notice of Allowance and withdrawal of the holding of abandonment may be appropriate in view of Delgar Inc. v. Schuyler, 172 U.S.P.Q. 513.

5. Applicant's failure to timely correct the drawings and/or submit new or substitute formal drawings by _____ as required in the last Office action.
 The corrected and/or substitute drawings were received on _____
6. The reason(s) below.

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DEC 23 1994

McANDREWS, HELD & MALLOY, LTD.

A. D. PELLINEN
SUPERVISORY PATENT EXAMINER
ART UNIT 214

Hon. Commissioner of Patents & Trademarks:

Re: Case No. 103064US04 Applicant STEVEN F. KOENCK
Client NORAND

Sir: Please place the Patent Office receipt stamp hereon and mail to
acknowledge the receipt of:

Transmittal letter
 Specification (No. of sheets including Claims and Abstract)
 Drawing (No. of sheets)
 Signed Declaration
 Trademark application drawing and 3 specimens
 Filing Fee \$ 990.00
 Assignment

OTHER RESPONSE TO FIRST OFFICE ACTION;
TERMINAL DISCLAIMER TO OBLIGATE
ANY DOUBLE PATENTING ISSUE; AND
PETITION FOR THREE MONTH EXTENSION.

Respectfully: **McANDREWS, HELD & MALLOY, LTD.**

Attorney for Applicant

Date mailed 10/5/94

Hon. Commissioner of Patents & Trademarks:

Re: Case No. 103064US04 Applicant STEVEN F. KOENCK
Client NORAND

Sir: Please place the Patent Office receipt stamp hereon and mail to
acknowledge the receipt of:

Transmittal letter
 Specification (No. of sheets including Claims and Abstract)
 Drawing (No. of sheets)
 Signed Declaration
 Trademark application drawing and 3 specimens
 Filing Fee \$ 990.00
 Assignment

OTHER RESPONSE TO FIRST OFFICE ACTION;
TERMINAL DISCLAIMER TO OBLIGATE
ANY DOUBLE PATENTING ISSUE; AND
PETITION FOR THREE MONTH EXTENSION.

Respectfully: **McANDREWS, HELD & MALLOY, LTD.**

Attorney for Applicant

Date mailed 10/5/94

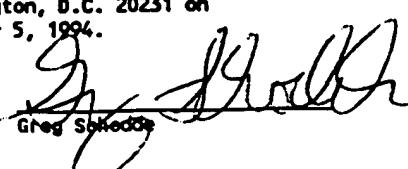


UNITED STATES PATENT AND TRADEMARK OFFICE
(Case No. 10306US04)

In The Application of:
STEVEN F. KOENCK
Filed: October 12, 1993
For: Battery Conditioning System
Having Communication With
Battery Management Means
Examiner: E. Voeltz
Group Art Unit: 2102

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner of Patents and Trademarks, Washington, D.C. 20231 on October 5, 1994.

By: 
Greg Schodde

PETITION FOR A THREE MONTH EXTENSION OF TIME

Commissioner of Patent and Trademarks
Washington, D.C. 20231

Sir:

Applicant requests a three month extension of time for reply to the Action dated April 6, 1994. A response will, therefore, be due on or before Thursday, October 6, 1994. A check in the amount of \$990.00 is enclosed, which includes payment of the \$870.00 fee for a three month extension of time (large entity).

The Commissioner is hereby authorized to charge any deficiency or credit any excess portion of this fee to Deposit Account No. 13-0017.

Respectfully submitted,

McAndrews, Held & Malloy, Ltd.

DATED: October 5, 1994

By


Gregory C. Schodde
Reg. No. 36,668

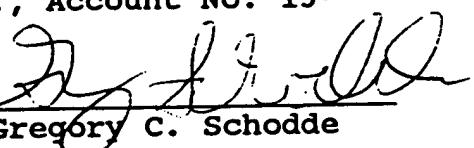
application shall be enforceable only during such period that said patent is commonly owned with United States patent No. 4,455,523, this agreement to run with any patent granted on the above-identified application and to be binding upon the grantee and its successors or assigns.

It is to be understood from the foregoing language that Norand Corporation does not disclaim any terminal part of any patent granted on the above-identified application prior to October 29, 2008, even if the effective life of said Patent No. 4,455,523 is shortened by a subsequent event (such as, for example, failure to pay a maintenance fee, a court or Patent Office ruling, or a disclaimer by the Patentee).

Fee Status (37 C.F.R. 1.20(d))

A check for the large entity fee of \$120.00 is enclosed.

Please charge any additional fees or credit overpayment to the deposit of McAndrews, Held & Mallow, Ltd., Account No. 13-0017.

By: 
Gregory C. Schodde

Title: Attorney of Record

Date: October 5 1974

UNITED STATES PATENT AND TRADEMARK OFFICE
(Case No. 10306US04)

In The Application of:
STEVEN F. KOENCK
Filed: October 12, 1993
For: Battery Conditioning System
Having Communication With
Battery Management Means
Examiner: E. Voeltz
Group Art Unit: 2102

CERTIFICATE OF MAILING

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By:

Greg Schodde

TERMINAL DISCLAIMER TO OBTAIN ANY DOUBLE
PATENTING ISSUE (37 C.F.R. 1.321(b))

Commissioner of Patents
and Trademarks
Washington, D.C. 20231

Dear Sir:

Interest of Entity Making This Disclaimer

Norand Corporation is the assignee of the entire interest in this application.

The Assignment was recorded in the parent application Serial No. 07/168,352 filed March 15, 1988 as follows:

Date of Recording: May 27, 1988

Reel: 4883

Frame: 797-798

Disclaimer

Norand Corporation hereby disclaims the terminal part of any patent granted on the above-identified application, which would extend beyond the expiration date of Patent No. 4,455,523, and hereby agrees that any patent so granted on the above-identified

Please charge any additional fees or credit overpayment to
the deposit account of McAndrews, Held & Malloy, Ltd., Account No.
13-0017.

Respectfully submitted,



Gregory C. Schodde
Reg. No. 36,668
Attorney for applicant

October 5, 1994
Date

McAndrews, Held & Malloy, Ltd.
500 W. Madison, Suite 3400
Chicago, IL 60661
312-707-8889

10-4-94
10
RECD
10-4-94

UNITED STATES PATENT AND TRADEMARK OFFICE
(Case No. 10306U804)

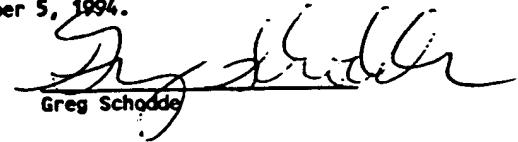
In The Application of:)
STEVEN F. KOENCK)
Filed: October 12, 1993)
For: Battery Conditioning System)
Having Communication With)
Battery Management Means)
Examiner: E. Voeltz)
Group Art Unit: 2102)

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner of Patents and Trademarks, Washington, D.C. 20231 on October 5, 1994.

By:

Greg Schodde



RESPONSE TO FIRST OFFICE ACTION

Commissioner of Patents
and Trademarks
Washington, D.C. 20231

Dear Sir:

Beloit thanks the examiner for consideration of the applicant's Information Disclosure Statement and Comments on the application. Enclosed herewith is a Terminal Disclaimer pursuant to 37 C.F.R. 1.321(b) which the applicant believes removes the only objection to the claims. Claims 49-64 are therefore believed to be allowable and a favorable action is respectfully requested by the applicant.

Respectfully submitted,



Gregory C. Schodde
Reg. No. 36,668
Attorney for applicant

October 5, 1994
Date

McAndrews, Held & Malloy, Ltd.
500 W. Madison, Suite 3400
Chicago, IL 60661
312-707-8889